

3626

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GEORGE IVERSON, Individually,

Plaintiff,

v.

NEWPORT HOTEL GROUP, LLC, and
JON E COHEN, DOUGLAS D. COHEN and
RENEE COHEN, as Trustees of Hyannis
Harborview Resort Condominium Trust

Defendants.

Case Number:04-12299 MLW

**MOTION TO ALLOW PLAINTIFF'S
COUNSEL TO APPEAR
TELEPHONICALLY AT THE
SCHEDULING CONFERENCE, OR
ALTERNATIVELY, TO POSTPONE
SCHEDULING CONFERENCE SET
FOR FEBRUARY 3, 2005**

COME NOW, the undersigned attorneys for the Plaintiff, and respectfully move this Court pursuant to Local Rule 40.3(a) for good cause to allow Plaintiff's counsel to appear telephonically at the scheduling conference, or in the alternative, to postpone the scheduling conference and as grounds thereof state the following:

1. Counsel for the Plaintiff has its principal place of business in Miami, Florida, although one of its attorneys involved in this case is licensed to to practice law in the United States District Court for the District of Massachusetts. The firm also has local co-counsel, who will be out of town during the time of the scheduled scheduling conference on February 3, 2005. Lead counsel for the Plaintiff, from the law firm of Fuller, Fuller & Associates, P.A., is John P. Fuller, who practices out of the firm's Miami office is scheduled to be in Boston from January 24, 2005 through January 27, 2005, and one of the purposes of that trip is to appear at a mutually agreed to inspection of the property that is the subject matter of this lawsuit.

2. It would be great expense for Mr. Fuller to fly to Boston for this one scheduling conference. Undersigned has conferred with opposing counsel and he is not objecting to Plaintiffs' counsel appearing telephonically.

3. Prior to the scheduling conference and in fact very shortly, counsel for both parties shall be filing a Joint Proposed Scheduling Report with the Court.

4. If the Court opposes Plaintiff's request for Plaintiff's counsel to appear telephonically, it is alternatively requested that the scheduling conference be postponed until April of 2005 as it is possible that the matter will be resolved without the necessity of establishing a schedule before that point; or at least the issues will be narrowed at that point.

5. Undersigned counsel anticipates that subsequent to the scheduled inspection, an expert report will be prepared, and thereafter, a proposed settlement agreement shall be forwarded to the Defendant, which will hopefully will lead to a prompt settlement of this lawsuit.

6. The undersigned certifies that he has conferred with opposing counsel who has stated that he has no objection to the requested relief set forth herein by the Plaintiffs.

Respectfully submitted,

FULLER, FULLER & ASSOCIATES, P.A.
Attorneys for Plaintiffs

12000 Biscayne Boulevard, Suite 609

North Miami, Florida 33181

Te: (305) 891-5199

Fax: (305) 893-9505

By O. Oliver Wragg *(with express permission)*

O. Oliver Wragg, Esq. (643152)

John P. Fuller, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished to Leonard H. Freiman; Goulston & Storrs; 400 Atlantic Avenue; Boston, MA 02110-3333; (617) 482-1776; (617) 574-4112. On this 17 day of January, 2005.

O. Oliver Wray (with
express
person)